WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2004

ENROLLED

House Bill No. 4554
(By Delegates Shaver, Beach, Howard, Paxton, Long, Canterbury and Mezzatesta)

Passed March 10, 2004
In Effect from Passage
ENROLLED

H. B. 4554

(BY DELEGATES SHAVER, BEACH, HOWARD, PAXTON, LONG, CANTERBURY AND MEZZATESTA)

[Passed March 10, 2004; in effect from passage.]

AN ACT to amend and reenact §18A-4-15 of the code of West Virginia, 1931, as amended, relating to the rights, privileges and benefits of substitute service personnel employed to fill vacancies created by leaves of absence, workers’ compensation and suspensions for more than thirty working days; and considering certain bus operators to be employed in the same building or working station.

Be it enacted by the Legislature of West Virginia:

That §18A-4-15 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-15. Employment of service personnel substitutes.

1 (a) The county board shall employ and the county superintendent, subject to the approval of the county board, shall assign
substitute service personnel on the basis of seniority to perform any of the following duties:

(1) To fill the temporary absence of another service employee;

(2) To fill the position of a regular service employee who requests a leave of absence from the county board in writing and who is granted the leave in writing by the county board, and to fill the position of a regular service employee who is on workers’ compensation and absent: Provided, That if the absence is to extend beyond thirty working days, the county board shall post the position of the absent employee under the procedures set forth in section eight-b of this article. If a substitute service employee is employed to fill the position of the absent employee and is employed in the position for twenty or more working days, the substitute service personnel shall have regular employment status and be accorded all rights, privileges and benefits pertaining to the position until the regular employee returns to the position or ceases to be employed by the county board: Provided, however, That if a regular or substitute employee fills a vacancy that is related to a leave of absence or the absence of an employee on workers’ compensation in any manner as provided in this section, upon termination of the absence the employee shall be returned to his or her original position: Provided further, That no service person may be required to request or to take a leave of absence: And provided further, That no service person shall be deprived of any right or privilege of regular employment status for refusal to request or failure to take a leave of absence;

(3) To perform the service of a service employee who is authorized to be absent from duties without loss of pay;

(4) To temporarily fill a vacancy in a permanent position caused by severance of employment by the resignation, transfer,
retirement, permanent disability, dismissal pursuant to section eight, article two of this chapter, or death of the regular service employee who had been assigned to fill the position: Provided, That within twenty working days from the commencement of the vacancy, the board shall fill the vacancy under the procedures set out in section eight-b of this article and section five, article two of this chapter and the person hired to fill the vacancy shall have and shall be accorded all rights, privileges and benefits pertaining to the position;

(5) To fill the vacancy created by a regular employee’s suspension: Provided, That if the suspension is for more than thirty working days, the county board shall post the position of the suspended employee under the procedures set forth in section eight-b of this article. If a substitute service employee is employed to fill the suspended employee’s position, the substitute service personnel shall have regular employment status and be accorded all rights, privileges and benefits pertaining to the position until the termination by the county board becomes final or the suspended employee is returned to employment. If the suspended employee is not returned to his or her job, the board shall fill the vacancy under the procedures set out in section eight-b of this article and section five, article two of this chapter; and

(6) To temporarily fill a vacancy in a newly created position prior to employment of a service personnel on a regular basis under the procedure set forth in section eight-b of this article.

(b) Substitutes shall be assigned in the following manner: A substitute with the greatest length of service time, that is, from the date he or she began his or her assigned duties as a substitute in that particular category of employment, shall be given priority in accepting the assignment throughout the period of the regular employee’s absence or until the vacancy is filled.
on a regular basis under the procedures set out in section eight-

b of this article. All substitutes shall be employed on a rotating
basis according to the length of their service time until each
substitute has had an opportunity to perform similar assign-
ments: Provided, That if there are regular service employees
employed in the same building or working station as the absent
employee and who are employed in the same classification
category of employment, the regular employees shall be first
offered the opportunity to fill the position of the absent em-
ployee on a rotating and seniority basis with the substitute then
filling the regular employee’s position. A regular employee
assigned to fill the position of an absent employee shall be
given the opportunity to hold that position throughout the
absence. For the purpose of this section only, all regularly
employed school bus operators are considered to be employed
within the same building or working station.

(c) Regular school service personnel shall be returned by
the county board of education to the same position held prior to
any approved leave of absence or period of recovery from
injury or illness. The school service personnel shall retain all
rights, privileges and benefits which had accrued at the time of
the absence or accrued under any other provision of law during
the absence and shall have all rights, privileges and benefits
generally accorded school service employees at the time of
return to work.

(d) The salary of a substitute service employee shall be
based upon his or her years of employment as defined in section
eight of this article and as provided in the state minimum pay
scale set forth in section eight-a of this article and shall be in
accordance with the salary schedule of persons regularly
employed in the same position in the county in which he or she
is employed.
(e) Before any substitute service employee enters upon his or her duties, he or she shall execute with the county board a written contract as provided in section five, article two of this chapter.

(f) To establish a uniform system of providing a fair and equitable opportunity for substitutes to enter upon their duties for the first time, the following method shall be used: The initial order of assigning newly employed substitutes shall be determined by a random selection system established by the affected substitute employees and approved by the county board. This initial priority order shall be in effect only until the substitute service personnel have entered upon their duties for the first time.

(g) Substitute service employees who have worked thirty days for a school system shall have all rights pertaining to suspension, dismissal and contract renewal as is granted to regular service personnel in sections six, seven, eight and eight-a, article two of this chapter.
That Joint Committee on Enrolled Bills hereby certifies that the
foregoing bill is correctly enrolled.

Larry

Chairman Senate Committee

Sharon Spencer

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved, this the 25th day of March, 2004.

Governor